

HOUSE No. 1528

By Mr. Nyman of Hanover, petition of Robert J. Nyman and Donald F. Humason, Jr., relative to regulating motor vehicle appraisals by insurance appraisers. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE REPAIR OF DAMAGED MOTOR VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 26, as appearing in the 2002 Official
2 Edition, is hereby amended by striking the eighteenth paragraph
3 of section 8G and inserting in place thereof the following:—

4 No insurer or appraiser or insurance agent shall require, sug-
5 gest, request, or recommend that any appraisals or repairs should
6 or should not be made in a specified registered repair facility or
7 facilities authorized under section 34O of chapter 90 or otherwise,
8 nor shall an insurer or appraiser use coercion or intimidation to
9 cause appraisals or repairs to be made or not made, in any speci-
10 fied repair facility or facilities. Failure to comply with the provi-
11 sions of the above paragraph will result in a fine of not less than
12 \$100.00 or more than \$500.00 per incident and shall be payable to
13 the board by the insurer. Any violations of this paragraph shall
14 constitute a violation of chapter 176D of the General Laws and
15 shall be enforced by the commissioner.

16 The provisions of this section shall take effect upon passage.

1 SECTION 2. Chapter 26, as appearing in the 2002 Official
2 Edition, is hereby amended by striking the nineteenth paragraph
3 of section 8G and inserting in place thereof the following:—

4 Chapter 26 of the General Laws, as appearing in the 2000 Offi-
5 cial Edition, is hereby amended in Section 8G, by adding at the
6 end of paragraph 19 the following:

7 The appraiser, representing the insurer, shall be required to
8 negotiate in good faith, using the manual the supplement was pre-
9 pared with. The repair shop may also require a completed supple-
10 mentary appraisal at the time the vehicle is viewed. If so
11 requested the repair shop must make available desk space, phone,
12 calculator and manual used to prepare the supplement. Or, the
13 repair shop may, at it's choosing, expedite the repair process by
14 providing electronic estimates in lieu of a personal inspection by
15 an appraiser representing the insurer. The insurer upon receiving
16 such request to handle the supplement in this expedited manner
17 shall process the request within 24 hours or be required to pay the
18 repairer the amount of the supplement request. Repairers
19 choosing this option shall provide digital photos along with the
20 supplement request and allow for re-inspection within 48 hours by
21 the insurer of the repaired vehicle upon notification of completion
22 of the repair. Payment must be made within three working days of
23 re-inspection or completion of repair. Failure to comply with the
24 provisions of this paragraph will result in a fine of not less than
25 \$100 or more than \$500 per incident and payable to the board by
26 the insurer. In addition, a violation of this paragraph shall be an
27 unfair claims settlement practice in the business of insurance, in
28 addition to those practices set forth in Section 9 of Chapter 176D.

1 SECTION 3. Section 34O of chapter 90 of the General Laws,
2 as appearing in the Official Edition, is hereby amended by striking
3 out in the fourteenth paragraph the words: "provided, however,
4 that for at least seventy-five per cent of those claims where the
5 appraisal indicates that the cost of repairs will exceed four thou-
6 sand dollars and at least twenty-fiver per cent of those claims
7 where the appraisal indicates that the cost of repairs will be four
8 thousand dollars or less, a licensed auto damage appraiser shall re-
9 inspect the vehicle following completion of repairs and shall cer-
10 tify on the claim form that the work has been completed in
11 accordance with an appraisal made pursuant to said regulations"
12 and inserting in place thereof the following:—

13 provided, however, that the commissioner may establish
14 requirements for re-inspection by licensed damage appraisers
15 during or following the completion of repairs. In cases where a
16 completed work claim form is required, a licensed auto damage

17 appraiser, shall certify that the work has been completed in accor-
18 dance with an appraisal or repair order.

19 The provisions of this section shall take effect upon passage.

1 SECTION 4. Section 34O of chapter 90 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking in the fifteenth paragraph the words “The commissioner
4 may require any plan” and inserting in place thereof the following
5 words:— “The commissioner shall require any plan.”

6 The provisions of this section shall take effect upon passage.

1 SECTION 5. Section 34O of chapter 90 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking clause (a) in the fifteenth paragraph and inserting in place
4 thereof the following:—

5 (b) that the insured or claimant will be given, a single list of all
6 repair shops registered under chapter 100A of the General Laws
7 which are geographically convenient for the insured or claimant,
8 which shall be arranged in alphabetical order according to city or
9 town, with no highlights, asterisks, underlining, font size differ-
10 ences or phone number or any other form of identification to indi-
11 cate that any shop is a referral shop or referral repair facility, from
12 which the insured or claimant may at his or her option select a
13 shop, which will without undue delay complete repair work for
14 the amount of the payment to the insured, plus any applicable
15 deductible. Insurers shall also provide a written disclosure,
16 approved by the commissioner, to the insured of their rights here-
17 under in accordance with commissioners Directive 94-03, and
18 shall not guarantee or warrant the quality of repairs at any par-
19 ticipating or non-participating referral shop or referral repair
20 facility and shall pay all repair shops or repair facilities, regard-
21 less of its status as a participating or non-participating referral
22 shop or referral repair facility, a fair and equitable labor rate;

23 The provisions of this section shall take effect upon passage.

1 SECTION 6. Section 34O of chapter 90 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking clause (c) in the fifteenth paragraph and inserting in place
4 thereof the following:—

5 No insurer or appraiser or insurance agent shall require, sug-
6 gest, request, or recommend that any appraisals or repairs should
7 or should not be made in a specified registered repair facility or
8 facilities authorized under this section or otherwise, nor shall an
9 insurer or appraiser use coercion or intimidation to cause
10 appraisals or repairs to be made or not made, in any specified
11 repair facility or facilities. Failure to comply with the provisions
12 of the above paragraph will result in a fine of not less than
13 \$100.00 or more than \$500.00 per incident and shall be payable to
14 the board by the insurer. Any violations of this paragraph shall
15 constitute a violation of chapter 176D of the General Laws and
16 shall be enforced by the commissioner.
17 The provisions of this section shall take effect upon passage.

1 SECTION 7. Section 34O of chapter 90 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting at the end of clause (e) of the fifteenth paragraph the
4 following:—

5 Failure to comply with the provisions of clauses (a) through (e)
6 of this paragraph shall result in a fine of not less than \$100 or
7 more than \$500 per incident and shall be payable to the Division
8 of Insurance by the insurer and shall also be considered a viola-
9 tion of chapter 176D of the General Laws and shall be enforced
10 by the commissioner.

11 The provisions of this section shall take effect upon passage.

1 SECTION 8. Chapter 100A, as appearing in the 2002 Official
2 Edition, is hereby amended by striking out in line 17 of section 2
3 the word “ten” and inserting in place thereof the word “twenty-
4 five.”

5 The provisions of this section shall take effect on June 1, 2006.

1 SECTION 9. Chapter 100A of the General Laws, as appearing
2 in the 2002 Official Edition, is hereby further amended by
3 inserting in section 2 at end of the first paragraph the following
4 sentence:—

5 Said application shall be further accompanied by proof in
6 writing from a licensed insurance company registered in the Com-
7 monwealth of the motor vehicle repair shop’s liability insurance

8 and workers' compensation insurance, if applicable, and liability
9 insurance.

10 The provisions of this section shall take effect upon passage.

1 SECTION 10. Chapter 100A is further amended by inserting in
2 section 2 at the end thereof the following paragraphs:—

3 Any motor vehicle repair shop applying for a certificate of reg-
4 istration under the current chapter is required to have all local,
5 state, and federal licenses and permits including a state sales tax
6 identification number, a federal tax identification number, and a
7 hazardous waste or Environmental Protection Agency number.
8 Every shop is required at all times to operate in accordance with
9 the current Environmental Protection Agency compliance regula-
10 tions, current Occupational Safety and Health Administration reg-
11 ulations, and to comply with all state and local fire and electrical
12 codes and must provide proof of compliance upon request.

13 Except for glass repair facilities and specialty repair facilities
14 otherwise specifically exempted by the commissioner of insurance
15 for good cause, every motor vehicle repair shop shall have, and as
16 a condition for registration shall certify that it has: (1) a paint
17 spray booth or room meeting the requirements of all applicable
18 statutes, ordinances, and regulations promulgated by the commis-
19 sioner; (2) high-volume, low-pressure paint spraying equipment,
20 or its equivalent; (3) metal inert gas welding equipment, or its
21 equivalent; (4) proper equipment and permits, or an identified
22 contracted source having proper equipment and permits, for the
23 evacuation of motor vehicle air-conditioning systems; (5) proper
24 equipment, or an identified contracted source having proper
25 equipment, for motor vehicle frame and unibody repair and mea-
26 suring; and (6) proper equipment, or an identified contracted
27 source having proper equipment, for performing motor vehicle
28 wheel alignment.

29 The commissioner of insurance shall promulgate reasonable
30 rules and regulations for the establishment of any additional min-
31 imum equipment standards required for every registered motor
32 vehicle repair shop in the commonwealth.

33 The division of standards shall inspect all registered repair
34 facilities on a biannual basis to insure compliance with the afore-
35 mentioned requirements. Failure to comply with any of the

36 requirements will result in the forfeiture of the registration until
37 such time as the division re-inspects the facility and determines
38 the shop is in full compliance. No insurer or its agents may nego-
39 tiate the repair of any vehicle with a shop that is unregistered or
40 has its registration suspended nor with any unlicensed individual
41 in a repair facility.

42 The provisions of this section shall take effect on June 1, 2006.

1 SECTION 11. Chapter 100A is further amended by striking out
2 in line 3 of section 2A the word “ten” and inserting in place
3 thereof the word “twenty-five.”

4 The provisions of this section shall take effect on June 1, 2006.

1 SECTION 12. Chapter 175 of the General Laws, as appearing
2 in the 2002 Official Edition, is hereby amended by striking out in
3 the third paragraph the words: “provided, however, that for at
4 least seventy-five per cent of those claims where the appraisal
5 indicates that the cost of repairs will exceed four thousand dollars
6 and at least twenty-five per cent of those claims where the
7 appraisal indicates that the cost of repairs will be four thousand
8 dollars or less, a licensed auto damage appraiser shall re-inspect
9 the vehicle following completion of repairs and shall certify on
10 the claim form that the work has been completed in accordance
11 with an appraisal made pursuant to said regulations” and inserting
12 in place thereof the following:—

13 provided, however, that the commissioner may establish
14 requirements for re-inspection by licensed damage appraisers
15 during or following the completion of repairs. In cases where a
16 completed work claim form is required, a licensed auto damage
17 appraiser, shall certify that the work has been completed in accor-
18 dance with an appraisal or repair order.

19 The provisions of this section shall take effect upon passage.

1 SECTION 13. Chapter 175 of the General Laws, as appearing
2 in the 2002 Official Edition, is hereby further amended by striking
3 clause (a) in the fourth paragraph and inserting in place thereof
4 the following:—

5 (a) that the insured or claimant will be given, a single list of all
6 repair shops registered under chapter 100A of the General Laws
7 which are geographically convenient for the insured or claimant,
8 which shall be arranged in alphabetical order according to city or
9 town, with no highlights, asterisks, underlining, font size differ-
10 ences or phone number or any other form of identification to indi-
11 cate that any shop is a referral shop or referral repair facility, from
12 which the insured or claimant may at his or her option select a
13 shop, which will without undue delay complete repair work for
14 the amount of the payment to the insured, plus any applicable
15 deductible. Insurers shall also provide a written disclosure,
16 approved by the commissioner, to the insured of their rights here-
17 under in accordance with commissioners Directive 94-03, and
18 shall not guarantee or warrant the quality of repairs at any par-
19 ticipating or non-participating referral shop or referral repair
20 facility and shall pay all repair shops or repair facilities, regard-
21 less of its status as a participating or non-participating referral
22 shop or referral repair facility, a fair and equitable labor rate;
23 The provisions of this section shall take effect upon passage.

1 SECTION 14. Chapter 175 of the General Laws, as appearing
2 in the 2002 Official Edition, is hereby further amended by striking
3 clause (c) in the fourth paragraph and inserting in place thereof
4 the following:—

5 No insurer or appraiser or insurance agent shall require, sug-
6 gest, request, or recommend that any appraisals or repairs should
7 or should not be made in a specified registered repair facility or
8 facilities authorized under this section or otherwise, nor shall an
9 insurer or appraiser use coercion or intimidation to cause
10 appraisals or repairs to be made or not made, in any specified
11 repair facility or facilities. Failure to comply with the provisions
12 of the above paragraph will result in a fine of not less than
13 \$100.00 or more than \$500.00 per incident and shall be payable to
14 the board by the insurer. Any violations of this paragraph shall
15 constitute a violation of chapter 176D of the General Laws and
16 shall be enforced by the commissioner.

17 The provisions of this section shall take effect upon passage.

1 SECTION 15. Chapter 175 of the General Laws, as appearing
2 in the 2002 Official Edition, is hereby further amended by
3 inserting at the end of clause (e) of the fourth paragraph the
4 following:—

5 Failure to comply with the provisions of clauses (a) through (e)
6 of this paragraph shall result in a fine of not less than \$100 or
7 more than \$500 per incident and shall be payable to the Division
8 of Insurance by the insurer and shall also be considered a viola-
9 tion of chapter 176D of the General Laws and shall be enforced
10 by the commissioner.

11 The provisions of this section shall take effect upon passage.